25

26

27

28

1 2 3 4 **E-FILED on** <u>05/20/09</u> 5 6 7 IN THE UNITED STATES DISTRICT COURT 8 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA 10 SAN JOSE DIVISION 11 DAISY D. QUESADA, 12 No. C-08-05790 RMW Plaintiff, 13 14 v. 15 COMMUNITY LENDING, INC. DBA JMAC ORDER REGARDING MOTION TO LENDING, EMC MORTGAGE DISMISS 16 CORPORATION, QUALITY LOAN SERVICE, MORTGAGE ELECTRONIC 17 REGISTRATION SYSTEM, INC., and all persons unknown, claiming, any legal or equitable right, title, estate, lien, or interest in 18 [Re Docket No. 12] the property described in this complaint 19 adverse to Plaintiff's title thereto, and DOES 1 through 30, inclusive, 20 Defendants. 21 22 23 24

On January 7, 2009, defendants EMC Mortgage Corporation ("EMC") and Mortgage Electronic Registration Systems, Inc. ("MERS") removed this case from Santa Clara County Superior Court. On January 9, 2009, EMC and MERS moved to dismiss the complaint for failure to state a claim. Plaintiff then filed a first amended complaint on February 3, 2009, which eliminated the claims for relief arising under federal law. *See* Opp. to Mot. to Dismiss 2. Plaintiff apparently anticipates moving to remand. *Id*.

ORDER REGARDING MOTION TO DISMISS—No. C-08-05790 RMW JAS

## Case 5:08-cv-05790-RMW Document 27 Filed 05/20/09 Page 2 of 3

**United States District Court** For the Northern District of California The amended complaint no longer seeks relief under federal law. In addition, the deed of trust included as Exhibit 1 to defendants' request for judicial notice (Docket No. 12) lists "ComUnity Lending Inc." (presumably the same entity as defendant Community Lending, Inc.) as a California corporation. Because the complaint on its face does not appear to provide a basis for exercising federal-question or diversity jurisdiction, the court requests additional briefing from defendants, not to exceed five pages, setting forth any basis for continued federal jurisdiction in this case.

Defendants shall file their brief by Friday, May 29, 2009. The hearing on the pending motion to dismiss is continued to Friday, June 12, 2009.

DATED: 05/20/09

RONALD M. WHYTE United States District Judge

## Case 5:08-cv-05790-RMW Document 27 Filed 05/20/09 Page 3 of 3

1	Notice of this document has been electronically sent to:
2	Counsel for Plaintiff:
3	Reuben Lagbao Nocos rlnocos@nocoslaw.com
4	Counsel for Defendants:
5 6	John M. Sorich jsorich@adorno.com Sung-Min Christopher Yoo cyoo@adorno.com
7 8	Counsel are responsible for distributing copies of this document to co-counsel that have not registered for e-filing under the court's CM/ECF program.
9	
10	
11	Dated: 05/20/09 JAS Chambers of Judge Whyte
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
	ORDER REGARDING MOTION TO DISMISS—No. C-08-05790 RMW